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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,774	12/30/2003	Gregor K. Frey	6570P044	8721
8791 7590 08/13/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
MUSA, ABDELNABO				
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2146				
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08/13/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/748,774

**Applicant(s)**

FREY ET AL.

**Examiner**

ABDELNABI O. MUSA

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 35-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 35-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Acknowledgment is made for the applicant's response and amendment filed on 05/09/2008.

#### Remarks

2. Claims 16-34, 59-66 has been canceled from the instant application.

#### Title

3. The title of the invention is accepted and has been entered

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim(s) 1-15 and 35-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kundu Pub. No (US. 2005/0132041 A1) in view of Evoy Patent No. (US 7,203,868 B1) and further in view of Chang et al. Patent No. (US 6,950,874)

As per **claim 1** Kundu teaches a method, comprising:

associating a resource (100- FIG.3) with a monitor managed bean (the monitoring framework associated with producing/consuming output/output format [0059]

[0072] at a node of a monitor tree (the gateway may decide to send a remote monitor to the consumer entity's local node [0067] [0072]; the monitoring entity creates another thread to take the monitored data for the resource, process the data, and send the processed data to the associated consumers in the required format [0099] [0100] [0164] FIG.3)

wherein the monitor tree (10) having the node including the monitor (150) managed bean and the resource (30-FIG.2) associated with the monitor managed bean (30 of FIG.11); monitoring resources (30 FIG.2) including the resource via a runtime managed bean (FIG.1);

requesting (110) monitoring information (request monitoring information about the resource [0013] [0018] FIG.4) regarding the resource from the runtime managed bean (a monitoring manager which is responsive to monitoring requirements (80) of data consumer entity [0021] [0090] [0165] FIG.3); and

receiving (150) the monitoring information at the node via the monitor managed bean (receiving the monitoring description of the resources [0018] [0042]) But does not teach the specifics on the resource associated with the monitor managed bean including a runtime managed bean. However, Evoy teaches a method for dynamically monitoring resources whereas a request of a user to monitor at least one specified resource is sent to a Monitor Request Module that monitors the specified resource and performs the requested operation at a particular instant in time (Col.5, Line 65; Col.6, Line 21; FIG.4) Also Chang teaches a network resource management system whereas a resource manager returns the requested information from the distributed data system

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in response to a user's request whereas each gateway machine runs a server component of a system management framework whereas the server component is a multi-threaded runtime process that comprises several components including an object request broker (ORB) an authorization service object location service and basic object adapter (BOA) all of which are associated with the managed resources (Col.4, line 28; Col.7, Line 8-66; FIG.2)

It would have been obvious to a person having ordinary skilled in the art at the time the invention was made to have modified Kundu by the teaching of Evoy and Chang because one would consider associating an agent or a monitor module to response to a user's request at a runtime which handles all further communications with the gateway and to associate the monitored resource with the agent at a node of a monitor tree, wherein the monitored tree having the node and the agent to accurately associate the time set with a particular resource.

As per **claim 2** Kundu teaches the method of claim 1, further comprising:

receiving a notification from the runtime managed bean at the node by the monitor managed bean (the deployment manager or the coordinator notifies the appropriate entities in the monitoring layer to start monitoring [0090] [0091]), the notification including a signal indicating availability of the monitoring information (the gateway matches the current monitoring requirements of consumer entities and the currently available monitoring data of monitoring entities [0044] [0051]); and

in response to receiving the notification, requesting the monitoring

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information from the runtime managed bean (request monitoring information about the resource [0013] [0018])

As per **claim 3** Kundu teaches the method of claim 1, further comprising:  
receiving a notification from a timer including an indication for the monitor managed bean to request the monitoring data (the monitoring entity forwards data based on a response time from per customer [0067] [0075]); and  
in response to receiving the notification, requesting the monitoring information from the runtime managed bean (request monitoring information about the resource [0013] [0018])

As per **claim 4** Kundu teaches the method of claim 1, wherein the runtime managed bean includes a resource monitor to monitor one or more resources including the associated resource (monitoring entities to monitor resources [0015] [0063])

As per **claim 5** Kundu teaches the method of claim 4, wherein one or more resources include Java resources associated with a Java 2 Platform, Enterprise Edition (J2EE) engine, the Java resources include one or more of the following: kernel, services, interfaces, and libraries corresponding to a dispatcher or a server associated with the J2EE engine. (The monitoring entity is written in Java programming language including resources of web services and supports interfaces enabling pulling of data [0099] [0161])

As per **claim 6** Kundu teaches the method of claim 1, wherein the monitor tree is based on a Java Management Extensions (JMX)-based Java monitoring architecture (a management entity can be software program written in java [0138] [0099])

As per **claim 7** Kundu teaches the method of claim 1, further comprises coupling the monitor tree with a central database and one or more client-level applications using a monitor service (a monitoring entity that forwards data from/to repository to/from customers [0023] [0076]), wherein the monitor service includes one or more of the following: connectors, adaptors, interfaces, and applications (Each Monitoring agent supports interfaces for pull of data by consumers [ 0162] [0164])

As per **claim 8** Kundu teaches the method of claim 7, further comprises retrieving an Extensible Markup Language (XML) file from the central database using the monitor service (the gateway creates an XML binding document for the consumer entity [0048] [0099]), the XML file having semantics and directives to generate the monitor tree (The gateway receives the request from the consumer with its requirements document in XML [0045] [0065])

As per **claim 9** Kundu teaches the method of claim 1, wherein monitor tree is generated using the semantics and the directives from the XML file (the gateway creates an XML binding document for the consumer entity [0048] [0077])

As per **claim 10** Kundu teaches the method of claim 7, wherein the one or more client-level applications include one or more of the following: a computing center management system, administrative tools, and third party tools (a distributed object processing tools are used [0154] and automatic computing and automatic SLA negotiations for which metrics needed by various consumers may change over time, including at runtime [0092] [0171])

As per **claim 11** Kundu teaches the method of claim 10, wherein the administrative tools include a visual administrator having a monitor viewer to display the monitoring information (A monitoring agent supports interfaces enabling pulling of data monitoring agents also support interfaces for modification of granularity/interval of data bundles, by monitoring services [0161] [0164])

As per **claim 12** Kundu teaches the method of claim 11, wherein the monitor viewer includes one or more of the following: a customized visual administrator monitor viewer, a Web-based monitor viewer, and a Graphical User Interface (GUI)-based monitor viewer (A monitoring agent supports interfaces enabling pulling of data monitoring agents also support interfaces for modification of granularity/interval of data bundles, by monitoring services [0161] [0164])



As per **claim 13** Kundu teaches the method of claim 11, wherein the monitoring information includes one or more of the following: current monitoring status of the associated resource, monitor history of the associated resource, and general information regarding the associated resource (the monitoring agent can connect to a consumer for control messages or immediate status reports [0158])

As per **claim 14** Kundu teaches the method of claim 13, wherein the current monitoring status includes a color-coded indication of at least one of the following: the associated resource is being monitored, the associated resource is nearing a critical value, the associated resource has reached the critical value, and the associated resource is not being monitored (a selector for comparing monitoring requirements with monitoring capabilities to select a monitoring entity, or to modify the active monitoring functions or entities, may be implemented in computer program code [0026] [0069])

As per **claim 15** Kundu teaches the method of claim 13, wherein the monitor history includes at least one of the following: a one-minute history of the associated resource, a five-minute history of the associated resource, a fifteen-minute history of the associated resource, a thirty-minute history of the associated resource, and a one-hour history of the associated resource (topology information includes a list of bindings representing which resources are currently being monitored which monitoring entities and which consumer entities are connected to receive data from which monitoring

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entities [0067] [0018] [0162]) but does not teach the specifics on the actual time valued histories.

It would have been obvious to a person having ordinary skilled in the art at the time the invention was made to have modified the teaching of Kundu to have the system tailored to include various time based levels of history based on the associated resource.

Claims 35-58 are related to the same limitation set for hereinabove, where the difference used is the phrase 'system' in claim 35 and 'machine-readable medium' in claim 44 whereas the wordings of the claims were interchanged within the claim itself and some of the claims were presented as a combination of two or more previously presented claims. This change does **NOT** effect the limitation of the above treated claims. Adding these phrases to the claims and interchanging the wording **DID NOT** introduce new limitations to those claims, the citations from the prior art have been inserted as needed. Refer to the cited prior art for more details and further mapping. Even though claims 35-58 have been differently written from the above treated claims, yet the limitations did not change. As mentioned, claim 35 has the limitation of claim 1, claim 36 the same as claim 8, claim 37 the same as claim 10, claim 38 the same as claim 11, claim 39 the same as claim 12, claim 40 the same as claim 7, claim 41 the same as claim 13, claim 42 the same as claim 14, claim 43 the same as claim 15, claim 44 has the limitation of claim 1, claim 45 the same as claim 2, claim 46 the same as claim 3, claim 47 the same as claim 4, claim 48 the same as claim 5, claim 49 the same

as claim 6, claim 50 the same as claim 7, claim 51 the same as claim 8, claim 52 the same as claim 9, claim 53 the same as claim 10. , claim 54 the same as claim 11, claim 55 the same as claim 12, claim 56 the same as claim 13, claim 57 the same as claim 14, claim 58 the same as claim 15, again there are no difference in limitations between claims 35-58 and the above treated claims.

### ***Response to Arguments***

5. Applicant's arguments with respect to the above treated claim(s) have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action

The examiner requests, in response to this Office action, support should be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line(s) in the specification and/or drawing figure(s). This will assist the examiner in prosecuting the application.

When responding to this office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdelnabi O. Musa whose telephone number is 571-2701901. The examiner can normally be reached on Monday Thru Friday: 7:30am to 5:00pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Pwu can be reached on 571-2726798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A.M

/Joseph E. Avellino/  
Primary Examiner, Art Unit 2146